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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

Conservatorship of the Person of  
AMANDA B.

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Petitioner and Respondent,

v.

AMANDA B.,

Objector and Appellant.

D053251

(Super. Ct. No. MH99491)

APPEAL from a judgment of the Superior Court of San Diego County, Linda B.  
Quinn, Judge. Affirmed.

I.

INTRODUCTION

Conservatee Amanda B. (Amanda) appeals from a judgment reestablishing a  
conservatorship of her person for one year under the Lanterman-Petris-Short Act

(LPSA).<sup>1</sup> A jury heard testimony from Amanda and a psychologist, Dr. Valerie Rice, and found Amanda to be gravely disabled.

Amanda contends that the trial court erroneously instructed the jury pursuant to CACI No. 4002. According to Amanda, the instruction was an improper statement of the law and was overly argumentative. She asserts that the jury would have reached a different result if the court had instructed the jury as her attorney requested. We conclude that the instruction the court gave was an accurate statement of the law, and was not overly argumentative. We therefore affirm the judgment.

## II.

### FACTUAL AND PROCEDURAL BACKGROUND

On February 19, 2008, the public conservator filed a petition to reestablish the conservatorship of Amanda, who was 44 years old. A report attached to the petition stated that Amanda suffered from schizophrenia, that she was delusional, and that she was being treated at a locked facility. Amanda denied the allegations in the petition and requested a jury trial. The trial began on June 3, 2008.

At trial, the public conservator called Dr. Rice as a witness. Dr. Rice, a forensic psychologist, had reviewed Amanda's medical history and had interviewed her on three occasions prior to trial. On each occasion that Dr. Rice met with Amanda, Amanda showed signs of psychotic and delusional thinking. For example, Amanda believed that she had five children, including five-month-old twins. She believed that all of her

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<sup>1</sup> Welfare & Institutions Code section 5000 et seq. Further statutory references are to the Welfare & Institutions Code unless otherwise indicated.

children were living at Buckingham Palace. Dr. Rice testified as follows regarding

Amanda's responses when Dr. Rice asked her why she did not want to be a conservatee:

"[T]he main reason was she didn't want to continue living in the United States. She told me that she was upset because she missed being with her five children. She said that her children were living at the palace and were being cared for by a governess. [¶] She said that she was actually on maternity leave, and she had a job at the palace working as a cross between a paralegal and a court reporter, and that the palace had wanted her to come back to resume living there. So she very much wanted to get off conservatorship so she could return to live in England. [¶] She told me that her parents were royalty, but they were no longer living at the palace, they were living in another palace called Lexus Palace. [¶] She said she had an income of \$40 billion a month."

Dr. Rice diagnosed Amanda as suffering from a psychotic disorder, and indicated that Amanda has difficulty discerning reality from fiction. Dr. Rice explained that Amanda was taking prescription medication for her psychotic thought disorder. However, the medication had not eliminated all of Amanda's delusions.

In Dr. Rice's opinion, Amanda could not provide for her basic personal needs because she was "unable to come up with any sort of coherent or realistic plan as to how she would provide for food, shelter or clothing if she were left to her own devices." For example, Amanda believed that if she were on her own, "she would go live in Buckingham Palace, and that all of her room and board would be taken care of, food would be provided to her without charge, and that there would be a tailor who would make her clothing." Amanda also told Dr. Rice that she had been married to the actor Dolph Lundgren, and because he had been in the military at one point, she was entitled to military benefits. When Dr. Rice asked Amanda how she would obtain food, "she said

that she would call the military and they would come to her house and they would stock her house with food and then charge his account for that."

Amanda testified at trial. She stated that she did not believe she has a mental disorder. Amanda testified that if her conservatorship ended, she would obtain shelter by moving to a house she owns in Los Angeles, which she said she has owned since 1959 (four years prior to her birth), or by moving to England. Amanda testified that Dr. Rice merely had to "call down there and get ahold of the queen" to verify Amanda's accounts about her history. According to Amanda, Queen Elizabeth Smith is her mother and Prince Charles is her father. Amanda stated that she did not believe that she should have to take "many medications" for her mental disorder, but, rather, that she needs medication only for her heart.

On June 4, 2008, the jury unanimously found Amanda to be gravely disabled. On that same day, the court entered a judgment reestablishing the conservatorship.

On June 13, 2008, Amanda filed a timely notice of appeal from the judgment.

### III.

#### DISCUSSION

The LPSA governs the involuntary commitment and treatment of mentally ill persons in California. The LPSA authorizes the appointment of a conservator for up to one year for any person who is determined to be "gravely disabled as a result of a mental disorder or impairment by chronic alcoholism." (§ 5350.) For purposes of this appeal, the term "gravely disabled" refers to "[a] condition in which a person, as a result of a

mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter." (§ 5008, subd. (h)(1)(A).)<sup>2</sup>

Amanda argues that the trial court erred in instructing the jury on the meaning of the term "grave disability." Specifically, Amanda objects to the court's use of CACI No. 4002, on which the court relied to instruct the jury as follows:

"The term [']gravely disabled['] means that a person is presently unable to provide for his or her basic needs of food, clothing or shelter because of a mental disorder.

"Psychosis or bizarre or eccentric behavior, delusions, [or] hallucinations are not enough by themselves to find that [Amanda] is gravely disabled. She must be unable to provide for the basic needs of food, clothing or shelter because of a mental disorder.

"If you find that [Amanda] will not take her prescribed medication without supervision, and that a mental disorder makes her unable to provide for her basic needs of food, shelter or clothing without such medication, then you may conclude that [Amanda]'s presently gravely disabled.

"In determining whether [Amanda] is presently gravely disabled, you may consider evidence that she did not take prescribed medication in the past. You may also consider evidence of her lack of insight into her mental condition.

"In considering whether [Amanda] is presently gravely disabled, you may not consider the likelihood of future deterioration or relapse of a condition."

Amanda contends that paragraphs three and four of this instruction, which deal with the significance of Amanda's failure to take necessary medication and her lack of

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<sup>2</sup> The statute also provides that the term "gravely disabled" may apply to persons found mentally incompetent under the Penal Code, if certain other factors exist. (§ 5008, subd. (h)(1)(B).)

insight into her condition, do not derive from either the statute or prior case law. She contends that the law does not support these portions of the instruction, and that these portions of the instruction are argumentative. These contentions are without merit.

The court in *Conservatorship of Guerrero* (1999) 69 Cal.App.4th 442 (*Guerrero*) approved the trial court's giving an instruction that is essentially identical to the one given here. In *Guerrero*, the conservatee challenged the propriety of the following instruction:

"In determining whether Respondent is presently gravely disabled, you may consider evidence of his past failure to take mental health medication when prescribed, and you may consider evidence of Respondent's lack of insight into his mental condition. [¶] If you find Respondent will not take his medication unless required to do so and that a mental disorder makes him unable to provide for his basic personal needs for food, clothing or shelter without such medication, then you may conclude Respondent is gravely disabled."  
(*Guerrero, supra*, 69 Cal.App.4th at p. 445.)

As noted in *Guerrero*, the challenged instruction contemplated "exactly the situation presented in *Conservatorship of Walker* [(1989)] 206 Cal.App.3d 1572," which "involved a conservatee who, it was established, lacked insight into his mental illness and felt he did not need medication." (*Guerrero, supra*, 69 Cal.App.4th at p. 446.) The *Walker* court "held that substantial evidence the conservatee could not provide for himself without medication and that he would not take his medication without the supervision of the conservator supported a finding he was presently gravely disabled. [Citation.]" (*Guerrero, supra*, 69 Cal.App.4th at p. 446.)

Because in *Guerrero* there was testimony at trial that "but for the medication, which Guerrero would not take without supervision, Guerrero was presently gravely disabled," the *Guerrero* court concluded that the challenged jury instruction "provided an

appropriate framework for the jury to consider these factors when determining whether Guerrero was presently gravely disabled." Thus, an instruction concerning the term "gravely disabled" that explains to the jury that it may consider evidence of a respondent's lack of insight into his or her condition, as well as evidence that the respondent will not take necessary medication without supervision, is an accurate statement of the law.

Such an instruction was appropriate in this case. Dr. Rice opined that Amanda would not continue to take her medication if she were not supervised, and that Amanda "denies that she has a mental disorder." Dr. Rice also noted that at a time in the past when Amanda was not under a conservatorship, she stopped taking her medications and ended up having to be hospitalized because "she had decompensated quite seriously." Moreover, Amanda herself testified that she did not believe that she has a mental disorder, demonstrating a lack of insight into her condition. She also stated that she does not believe that she needs medication for a mental disorder. In light of all of this evidence, the trial court appropriately instructed the jury that it could determine that Amanda is gravely disabled if it found that she would not take her prescribed medication without supervision, and that without the prescribed medication, her mental disorder would render her unable to provide for her basic needs of food, shelter or clothing.

IV.  
DISPOSITION

The judgment is affirmed.

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AARON, J.

WE CONCUR:

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HALLER, Acting P.J.

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McINTYRE, J.